

Regulatory Language

Repeal Subsection (e) of Section 195, Title 14, CCR, as follows:

~~(e) Owners and operators of vessels and barges subject to these provisions shall carry and cooperate with department and federal fishery observers, and observers collecting data for the department on trips when space is available, at no charge to the sponsoring agency. If observer coverage of a trip is denied by the owner or operator of a vessel, the department may require an explanation in writing by the owner or operator be submitted to the department within 15 days of the department's request for an explanation.~~

NOTE

Authority cited: Sections 7071, 7923 and 8587.1, Fish and Game Code. Reference: Sections 7923 and 8587.1, Fish and Game Code.

Adopt Section 105.5, Title 14, CCR, as follows:

Section 105.5 Cooperation with State and Federal Fishery Observers

(a) Owners or operators of commercial fishing vessels permitted under regulations of the Commission, and commercial passenger fishing vessels licensed pursuant to Fish and Game Code Section 7920, will, as a condition of permit or license issuance, cooperate with Department or Federal fishery observers, or observers collecting data for the Department, when asked to carry and accommodate an observer on fishing trips at no charge to the sponsoring agency.

(b) If observer coverage of a trip is denied by the owner or operator of a vessel, the Department may require an explanation in writing from the owner or operator. This explanation shall be received by the Department within 15 days of written request by the Department for an explanation.

(c) The Department may request revocation of fishing permits or licenses to the Commission for denials that it deems to be uncooperative in nature, after first allowing the owner or operator to meet with the Manager of Marine Region, or his representative, to provide an explanation for the denial.

(d) The Department or Federal agency requesting cooperation under subsection (a) shall not require the vessel operator or owner to provide an observer with meals or a subsistence allowance on observed fishing trips, but shall accommodate the observer with regard to reasonable eating and working conditions and access to pertinent fishing information and fishery data while aboard the vessel.

(e) Failure to provide reasonable eating and working conditions or access to pertinent fishing information or fishery data to observers, or actions taken by a vessel owner or operator against an observer that is prohibited pursuant to subsection (f), on observed fishing trips may lead to revocation of the vessel's fishing permits or licenses issued under regulations of the Commission following the procedure outlined in subsections (b) and (c) above.

(f) To ensure that observer objectives may be reasonably and safely achieved, consistent with federal groundfish observer rules, it is unlawful for any person to do any of the following:

(1) forcibly assault, resist, oppose, impede, intimidate, sexually harass, bribe, or interfere with an observer,

(2) interfere with or bias the sampling procedure employed by an observer, including physical, mechanical, or other sorting or discarding of any catch before sampling,

(3) tamper with, destroy or discard an observer's collected samples, equipment, or personal gear, without the express consent of the observer,

(4) prohibit or bar by command, impediment, threat, coercion, or refusal of reasonable assistance, an observer collecting samples, making observations, or otherwise performing the observers duties,

(5) harass an observer by conduct that has sexual connotations, has the purpose or effect of interfering with the observer's work performance, or otherwise creates an intimidating, hostile or offensive environment,

(6) require, pressure, coerce, or threaten an observer to perform duties normally performed by crew members.

NOTE

Authority cited: Sections 1006, 7071, 7652, 7923, 8405.3, 8587.1, and 8591, Fish and Game Code. Reference: Sections 7055, 7056, 7058, 7071, 7857, 7923, 8587, and 8587.1, Fish and Game Code.